

Jan-14-2000 11:38am From-PILLSBURY ADISON

T-871 P.002/004 F-007

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

BRANSTROM et al.

Appln. No. 08/711,961

Group Art Unit: 1636

Filed: September 6, 1996

Examiner: J. Railey

Title: BACTERIAL DELIVERY SYSTEM

\* \* \* \*

DECLARATION UNDER RULE 131

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231



Sir:

I, Donata Sizemore, do hereby declare and state:

1. I am an inventor on Patent Application No. 08/711,961, and I am familiar with the specification and prosecution history, including the Office Action issued July 19, 1999.

2. In the July 19, 1999 Office Action, the Examiner rejected pending claims 45-55 as being anticipated by U.S. Patent No. 5,877,159 issued to Powell et al. on March 2, 1999. The Examiner indicated that the Powell et al. patent has a priority date of May 3, 1995.

3. The invention described and claimed in Application No. 08/711,961 was made prior to May 3, 1995, as evidenced by the facts set forth on page 1 of the July 1995 invention disclosure submitted by myself and my coinventors to the United States Department of the Army, assignee of the invention, a copy of which is attached hereto.

4. The information set forth on the attached page is a

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BRANSTROM et al. -- Appln. No. 08/711,961

true representation of the facts surrounding the invention to the best of my belief and knowledge.

5. I declare further that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the instant patent specification or any patent issuing thereon.

By Danah N. Lymer

Date 1/14/00



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From-PILLSBURY



UNITED STATES OF AMERICA

## INVENTION DISCLOSURE

(THIS FORM AND ACCOMPANYING DRAWING AND DESCRIPTION SHEETS ARE TO BE COMPLETED FOR EACH INVENTION AND PROMPTLY FORWARDED TO THE PATENT ACTIVITIES OFFICE.)

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PATENT  
ACTIVITIES

DOCKET NO.

ASSIGNED TO:

SHORT TITLE OF INVENTION: Immunizations and for a potential vaccine candidate against *Shigella flexneri* infection.

FULL NAME(S) OF INVENTOR(S)  
(FIRST) (MIDDLE INITIAL) (LAST)HOME  
ADDRESS(ES)

(GUY) TEL. NO. AREA CODE

(1) Arthur A. Branstrom  
(2) Donna R. Sizemore  
(3) James C. Sargent

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(610)277-4639

INFORMATION  
AND DATES  
CONCERNING  
THIS INVENTION

NEEDED IN THE EVENT OF A CON-  
TEST OF THE PRIORITY OF INVENTION  
IN THE U.S. PATENT AND TRADE-  
MARK OFFICE. ALL RECORDS  
CITED SHOULD BE DATED AND  
SIGNED BY TWO INDEPENDENT  
WITNESSES WHO HAVE READ  
AND UNDERSTOOD THE MAT-  
TERIAL.

ON WHAT DATE DID YOU FIRST THINK OF THIS INVENTION (WHAT RECORDS SHOW THIS?)  
(1) Primers for *asd* deletion were designed and synthesized 08/12/93.

GIVE DATE OF AND IDENTIFY EARLIEST SKETCH OR DRAWING  
(2) Freezer stock of constructed suicide vector for chromosomal mutagenesis of *asd* made 01/19/94. The  
mutated *S. flexneri* was made and officially documented 09/19/94. Laboratory Notebook #A0620.

WHEN/WHERE AND TO WHOM DID YOU MAKE THE FIRST DISCLOSURE TO OTHERS OF THE INVENTION  
EITHER ORALLY OR IN WRITING?  
(3) June, 1993/Palo Alto. Orally and in writing (under confidentiality) to Dr. Nelson Teng.

DESCRIBE DETAILS OF ANY WORK OR TESTS DONE TO PRODUCE OR OPERATE THE INVENTION  
GIVE DATES AND WITNESSES (USE OTHER PAGES IF NECESSARY)

(4) See attached documentation for item 14A (Drawing and Description Sheet)

DESCRIBE AND GIVE DATES OF ANY OTHER SKETCHES, DRAWINGS OR REPORTS PERTINENT TO THIS INVENTION  
(5) June 1993, at Palo Alto, discussed in confidence with Dr. Nelson Teng.

USE, SALE OR  
PUBLICATION

NEEDED TO ESTABLISH THE DATE  
OF ANY PRINTED PUBLICATION,  
PUBLIC USE OR SALE, SINCE NO  
PATENT APPLICATION MAY BE  
FILED AFTER ONE YEAR FROM  
SUCH DATE.

IF INVENTION HAS BEEN SOLD OR USED FOR PROFIT, WHEN AND TO WHOM DISCLOSED OR WHEN AND HOW USED?  
(6) N/A

HAS A DESCRIPTION OF THIS INVENTION BEEN MADE AVAILABLE TO PERSONS OUTSIDE THE ARMY? (WRITTEN OR  
ORAL) IF SO, HOW AND WHEN AND WAS USE RESTRICTED?

(7) Yes: Submitted for review for publication on June 7, 1995.

Access made available to Dr. David Hone for purpose of collaboration.

POTENTIAL MARKET  
INFORMATION

NEEDED FOR POSSIBLE MARKET-  
ING INVESTIGATIONS AND AS AN  
AID TO POTENTIAL LICENSING  
TO OTHERS.

DESCRIBE ANY POTENTIAL OR EXISTING MARKET FOR SALE OR LICENSE OF THIS INVENTION  
(8)

A. GOVERNMENT:

See attached for item #11 A and B.

B. COMMERCIAL:

C. IDENTIFY ANY KNOWN FIRMS OR VENDORS WHO MAY BE INTERESTED IN THE INVENTION

CONTRACT  
INFORMATION

A DETERMINATION OF RIGHTS IN  
THIS INVENTION WILL BE NECES-  
SARY. (SEE AR 27-60)

IF THIS INVENTION WAS FIRST CONCEIVED OR CONSTRUCTED IN CONNECTION WITH:  
(9)

A. MY DUTIES AS A GOVERNMENT EMPLOYEE

B. MY WORK UNRELATED TO MY DUTIES AS A GOVERNMENT EMPLOYEE (PRIVATE, OFF DUTY ACTIVITIES)

C. MY DUTIES AS A GOVERNMENT EMPLOYEE &amp; WORKING WITH A CONTRACTOR

D. NEITHER A, B OR C, EXPLAIN

Invention conceived outside of job description guidelines, but following the mission  
goal of vaccine development.

FOREIGN FILING  
CONSIDERATION

NEEDED TO DETERMINE THE  
POTENTIAL WORLDWIDE USE  
FOR THE INVENTION.

INDICATE THE POTENTIAL FOR USING THIS INVENTION IN FOREIGN COUNTRIES  
(10)

☐ POOR☐ GOOD☒ EXCELLENTSECURITY  
CLASSIFICATION

PLEASE INDICATE THE SECURITY CLASSIFICATION IF KNOWN  
(11)

☐ CLASSIFIED  
LEVEL☐ UNCLASSIFIED☐ CLASSIFICATION UNKNOWN

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